

[ECF Nos. 1, 2, 3]

<sup>3</sup> ECF No. 2.

1 pay the \$5.00 filing fee or file a properly completed pauper application by October 27, 2017.

2 **B. Oversized petition**

3 Paez asks for permission to file an oversized petition,<sup>4</sup> and he cites to the Federal Rules of  
4 Appellate Procedure. As this is not an appeal, the Federal Rules of Appellate Procedure do not  
5 apply. Instead, LSR 3-2 of the Local Rules of Practice applies, which expressly states “there is  
6 no page limit with respect to habeas corpus petitions.”<sup>5</sup> I therefore deny Paez’s motion as  
7 unnecessary.

8 **C. Appointment of counsel**

9 Finally, Paez also requests appointment of counsel to pursue his petition for a writ of  
10 habeas corpus. There is no constitutional right to counsel for a federal habeas corpus  
11 proceeding.<sup>6</sup> But I have discretion to appoint counsel if the “interests of justice require  
12 representation,” and I must appoint counsel if the case is so complex that denial of counsel would  
13 amount to a denial of due process.<sup>7</sup> I “must evaluate the likelihood of success on the merits as  
14 well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the  
15 legal issues involved.”<sup>8</sup> The factors to consider are not separate from the underlying claims but  
16 are intrinsically enmeshed with them.<sup>9</sup>

17 I deny the motion for appointment of counsel. Paez has demonstrated that he can clearly  
18 articulate the claims that he believes entitle him to habeas corpus relief,<sup>10</sup> and though some of his  
19 claims involve somewhat-complex legal issues, he presents copious, articulate arguments for  
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21 <sup>4</sup> ECF No. 3.

22 <sup>5</sup> L.S.R. 3-2(b).

23 <sup>6</sup> *Penn. v. Finley*, 481 U.S. 551, 555 (1987).

24 <sup>7</sup> *See Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987).

25 <sup>8</sup> *See Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983).

26 <sup>9</sup> *Id.*

27 <sup>10</sup> ECF No. 1-1.

1 each of his claims.

2 **Conclusion**

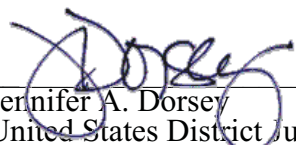
3 Accordingly, IT IS HEREBY ORDERED that Paez's application to proceed *in forma*  
4 *pauperis* [ECF No. 1] is **DENIED without prejudice**. Paez has **until October 27, 2017, to**  
5 **either pay the \$5.00 filing fee or file a new and complete application to proceed *in forma***  
6 ***pauperis* together with a properly executed financial certificate and an inmate account**  
7 **statement for the past six months.** If Paez fails to either pay the filing fee or submit a properly  
8 completed new pauper application before this court-ordered deadline, **this action will be**  
9 **dismissed without further advance notice.**

10 The Clerk of Court is directed to **SEND Paez two copies of an *in forma pauperis***  
11 **application form for incarcerated persons along with one copy of the instructions for the**  
12 **same.**

13 IT IS FURTHER ORDERED that Paez's motion for appointment of counsel [ECF No. 2]  
14 **is DENIED without prejudice.**

15 IT IS FURTHER ORDERED that Paez's motion for leave to file an oversized petition  
16 **[ECF No. 3] is DENIED.**

17 DATED: September 26, 2017.

18   
19 Jennifer A. Dorsey  
20 United States District Judge  
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